

STATE OF NEW YORK

DEPARTMENT OF TAXATION AND FINANCE

BOARD OF CONFEREES - CORPORATION TAX BUREAU

In the Matter of the Applications of

QUEENS WOODBRIAR CORP.

for revision or refund of franchise
taxes under Article 9A of the Tax
Law for the fiscal years ended
November 30, 1962 and 1963.

Hearing Case No. 3677

The taxpayer computed the following taxes:

	<u>11/30/62</u>	<u>11/30/63</u>
Total Capital	\$4,632,625.60	\$4,545,116.66
Tax at 1 Mill	\$ 4,632.63	\$ 4,545.12

A penalty of \$181.80 was computed for late payment on the report for the fiscal year ended November 30, 1963.

Timely applications and amended reports were filed on December 14, 1964.

The applications state, in part, as follows:

"Mortgage Payable should have been computed as a deduction from Total Assets; in that the mortgage payable is not an original mortgage granted by the taxpayer corporation. The mortgage payable represents an original mortgage granted by the prior owners of the real estate. The present taxpayer corporation acquired the real estate subject to this debt and did not grant a new mortgage. The prior owners were Woodbriar Manor Inc. c/o Fisher Bros., 605 Third Ave., NY City, N.Y.; the mortgagee is John Hancock Life Insurance Co., Boston, Mass. Based upon the foregoing the taxpayer corporation's equity in the mortgaged property should correctly have been reported as the excess over and above the amount of the mortgage payable."

Under Section 3.32 of the Ruling of State Tax Commission, the taxpayer is only required to include in total capital its equity in property over and above the amount of any indebtedness for which it is not personally liable.

Accordingly, the taxes have been corrected, as follows:

11/30/62

Net Income	\$32,657.61
Tax at 5½%	1,796.19
Original Tax	4,632.63
Reduction	\$ 2,836.44

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Corrected Total Capital	\$1,701,367.61
Tax at 1 Mill	1,701.37
Original Tax and Penalty	4,726.92
Reduction	\$ 3,025.55

The penalty for late payment, which has not been paid, is being eliminated because of the refund due the taxpayer of \$3,025.55.

William F. Sullivan
Chairman

Donald D. B. B.

WFS:MB
January 22, 1965